

FEDERAL MARITIME COMMISSION

[Docket No. 03-01]

Hual As v. Puerto Rico Ports Authority; Notice of Filing of Complaint and Assignment

HUAL AS ("Complainant") has filed a complaint against the Puerto Rico Ports Authority ("Respondent"). Complainant states that its roll-on/roll-off ("RO/RO") vessels call at ports and terminals operated by Respondent in San Juan, Puerto Rico, and that it leases port area land from Respondent. Although some of the vehicles Complainant discharges at San Juan are destined for Puerto Rico, most are discharged for subsequent transshipment throughout the Caribbean.

Complainant states that Respondent's marine terminal operator tariff sets forth wharfage rates for varying categories of commodities. Complainant states that the tariff provides: (1) That wharfage is assessed only on the inbound movement of cargo transferred from one vessel to another at Respondent's facilities without change in form or content; and (2) a 15-day free-time period for non-containerized cargo paying only incoming wharfage originally manifested for transshipment to other ports without change in form or content. Complainant states that the tariff does not set forth wharfage rates for transshipped motor vehicles.

Complainant asserts that Respondent has charged it wharfage for transshipped automobiles at a \$6.0629 "Motor Vehicle" rate rather than at the \$1.0860 "Transshipment" rate, and that Respondent charges it wharfage on both inbound and outbound movements. Complainant states that, because there is no specific rate in the tariff for transshipped automobiles, and given the tariff's rates for transshipped cargoes, the tariff's structure and language is vague and ambiguous and Respondent's practice of assessing the higher automobile wharfage rate against transshipped automobiles in contrast to other transshipped cargo is an unreasonable practice violative of section 10(d)(1) of the Shipping Act of 1984 ("Shipping Act"), 46 U.S.C. app. § 1909(d)(1). Complainant further contends that assessing the higher automobile rate against transshipped cargoes when the tariff establishes lower rates governing transshipped cargo generally confers unreasonable preference and advantage upon those shippers paying the lower tariff rate and unduly and unreasonably prejudices and disadvantages Complainant in violation of section 10(d)(4) of the

Shipping Act, 46 U.S.C. app. § 1909(d)(4). Finally, Complainant asserts that Respondent's assessment of wharfage for inbound and outbound automobile movements is inconsistent with the express terms of its tariff and that Respondent has thus engaged in unreasonable practices violative of section 10(d)(1) of the Shipping Act, 46 U.S.C. app. § 1909(d)(1).

Complainant asks the Commission to issue an order finding Respondent to have violated sections 10(d)(1) and 10(d)(4) of the Shipping Act and directing Respondent to cease and desist from continued violations of the Shipping Act, including assessment of and pursuance of claims against Complainant for non-payment of disputed wharfage charges. Complainant also seeks recovery of the amounts it paid that exceed the governing tariff rate for transshipped cargo, reparations in amounts to be proved at trial, interest and reimbursement of attorneys' fees.

This proceeding has been assigned to the office of Administrative Law Judges. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61, and only after consideration has been given by the parties and the presiding officer to the use of alternative forms of dispute resolution, such as those described in Subpart U of the Commission's Rules of Practice and Procedure, 46 CFR §§ 502.401-502.411.

The hearing, if any, shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the presiding officer in this proceeding shall be issued by January 30, 2004, and the final decision of the Commission shall be issued by June 1, 2004.

Bryant L. VanBrakle,
Secretary.

[FR Doc. 03-3016 Filed 2-6-03; 8:45 am]

BILLING CODE 6730-01-P

FEDERAL MARITIME COMMISSION**Notice of Meeting**

TIME AND DATE: 10 a.m.—February 11, 2003.

PLACE: 800 North Capitol Street, NW., First Floor Hearing Room, Washington, DC.

STATUS: A portion of the meeting will be open to the public and the remainder of the meeting will be closed.

MATTERS TO BE CONSIDERED: The Portion Open to the public:

1. Docket No. 99-13—The Content of Ocean Common Carrier and Marine Terminal Operator Agreements Subject to the Shipping Act of 1984.

2. Proposed Revisions to the Information Form and Monitoring Report Regulations for Carrier Agreements Under 46 CFR part 535.

1. The Portion Closed to the public: Proposed Revisions to the Commission's Regulations Regarding the Filing of Agreements Minutes Under 46 CFR part 535.

CONTACT PERSON FOR MORE INFORMATION: Bryant L. VanBrakle, Secretary, (202) 523-5725.

Bryant L. VanBrakle,
Secretary.

[FR Doc. 03-3102 Filed 2-6-03; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM**Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies**

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than February 21, 2003.

A. Federal Reserve Bank of Atlanta
(Sue Costello, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30303:

1. *Allen Tucker*, Palm Beach, Florida; to acquire additional voting shares of Advantage Bankshares, Inc., North Palm Beach, Florida, and thereby indirectly acquire additional voting shares of Advantage Bank, North Palm Beach, Florida.